

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:

Vascular Access Centers, L.P.,

Debtor.

Involuntary Chapter 11

Case No. 19-17117 (AMC)

**VASCULAR ACCESS CENTERS, LLC’S AND JAMES F. MCGUCKIN, M.D.’S
EMERGENCY MOTION TO VACATE ORDER GRANTING JOHN E. ROYER’S
MOTION TO QUASH SUBPOENA**

Vascular Access Centers, LLC (“VAC LLC”) and James F. McGuckin, M.D. (“Dr. McGuckin”), hereby submit the following Emergency Motion to Vacate Order Granting John E. Royer’s Motion to Quash Subpoena:

1. On September 28, 2021, at 8:21 PM, Non-Party John E. Royer filed an Emergency Motion to Quash the Subpoena (“Royer Motion”) served on him by Dr. McGuckin. [Doc. No. 927].

2. On September 29, 2021, at 11:27 AM, before Dr. McGuckin had a chance to respond to the Royer Motion, and without advance notice, the Court entered an Order granting the Royer Motion and quashing the Subpoena, concluding the Subpoena was not properly served, insufficient advance notice was given, and testimony from Mr. Royer was “irrelevant.” [Doc. No. 928].

3. The Order should be vacated -- as also expressed to the Court via Counsel’s September 29, 2021 email, subsequently filed of record by counsel at Doc. No. 929 – for the following reasons:

- First, Mr. Royer WAS served personally and there is definitive proof of it. (See Affidavit of Service, Exhibit A.) Indeed, a process server from “Heaven Sent Legal Services” hand-served Mr. Royer’s office, and Dr. McGuckin’s counsel paid \$190.00 for it to do so. (See receipt for service, attached as Exhibit “B.”) Mr. Royer’s “administrative assistant,” who signed a Declaration stating the subpoena arrived via Federal Express is flat out wrong.
- Second, Mr. Royer and his counsel have been on notice for months that his recanted Affidavit is at the core of Dr. McGuckin’s Motion to Vacate. They have known for months Dr. McGuckin filed such a motion. Their allegation that they do not have adequate time to prepare is a complete sham. Dr. McGuckin’s counsel abided the Court’s August 4, 2021 Order to disclose witnesses on September 23rd, and then personally served Mr. Royer the very next day. (It should also not be lost on this Court that Mr. Royer lied in his affidavit to the Delaware County Court about his so-called “unavailability” to testify live at the August 2018 injunction hearing, which was what gave rise to the false Affidavit in the first place.)
- Third, Mr. Royer’s recanted Affidavit---which was submitted in Court Proceedings as a knowing falsehood---was the core basis of the “Derivative Litigation,” the allegations of which became instrumental in this Court’s February 7, 2020 scathing opinion that Dr. McGuckin, by owning his own centers and competing with VAC, put his own interest above the interest of VAC, and that he should be sanctioned. Mr. Royer’s subsequent deposition testimony makes clear McGuckin was absolutely entitled to own his own centers and compete. One of the main girders supporting this Court’s February 7, 2020 Opinion is flat out based upon a fabrication. Testimony in that regard cannot be “irrelevant.”

WHEREFORE, Moving Parties, VAC LLC and Dr. McGuckin, respectfully request that the Court enter an order, substantially in the form of the Proposed Order attached hereto granting the relief requested in this Motion by vacating the Court’s Order [Doc. 928], grant Dr. McGuckin an adverse inference that Mr. Royer has misled yet another Court as to his “unavailability” to testify and service of a subpoena seeking testimony, and that the entirety of Mr. Royer’s Deposition Testimony and Exhibits thereto are admitted as evidence for purposes of Dr. McGuckin’s Motion to Vacate the Court’s February 7, 2020 Opinion appointing a Trustee [Doc. No. 896], which should likewise be granted.

Respectfully submitted,

BOCHETTO & LENTZ, P.C.

/s/ George Bochetto

Dated: September 29, 2021

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CERTIFICATE OF SERVICE

I, David P. Heim, Esquire, hereby certify that the foregoing Emergency Motion to Vacate Order Granting John E. Royer's Motion to Quash Subpoena has been served on counsel of record in this matter by way of the Court's ECF system.

BOCHETTO & LENTZ, P.C.

Dated: September 29, 2021

By: /s/ David P. Heim, Esquire
David P. Heim, Esquire